

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)	
IDAHO POWER COMPANY FOR AN)	CASE NO. IPC-E-05-22
ORDER TEMPORARILY SUSPENDING)	
IDAHO POWER'S PURPA OBLIGATION TO)	
ENTER INTO CONTRACTS TO PURCHASE)	
ENERGY GENERATED BY WIND-)	ORDER NO. 29839
POWERED SMALL POWER PRODUCTION)	
FACILITIES)	

On June 17, 2005, Idaho Power Company (Idaho Power; Company) filed a Petition with the Idaho Public Utilities Commission (Commission) requesting a temporary suspension of the Company's obligation under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and various Commission orders, to enter into new contracts to purchase energy generated by qualifying wind-powered small power production facilities (QFs). The requested suspension would not affect new contracts with QFs utilizing other generating technologies.

Idaho Power requests that the proposed temporary suspension remain in effect for a period of time sufficient to allow the Commission to investigate the impacts on Idaho Power's customers arising out of the addition of substantial amounts of wind-powered generation projects. Such a Commission investigation, the Company contends, would consider: (1) the impact of intermittent wind resources on the Company's total cost of power supply, (2) the impact of intermittent wind resources on the reliability of electric service to customers, (3) whether the current avoided cost methodology correctly measures the power supply costs the Company can actually avoid by adding intermittent wind generating resources, and (4) such other matters as the Commission deems appropriate.

The Commission in this Order reduces the published rate eligibility cap for non-firmed wind projects to 100 kW, requires individual negotiation for larger wind QFs, establishes criteria for assessing QF contract entitlement and discusses further procedure. This Commission is supportive of wind generation and believes that it is a proven renewable energy technology that can be, when properly integrated and economically developed, an important addition in the resource portfolio of Idaho's electric utilities. The concern we address in this Order and case docket is the proper pricing of intermittent wind generation purchased pursuant to federal

obligation and the related utility integration costs that we find may not be fully reflected in the published avoided cost rates.

BACKGROUND

Published Rates – PURPA QFs

Idaho Power notes in its Petition and in its later filed testimony that in accordance with Commission Order No. 29646 issued on December 1, 2004, the current average levelized “published rates” for 20-year QF contracts are approximately \$61 per megawatt hour (MWh). Since Order No. 29646 was issued, Idaho Power has received approval from the Commission for QF contracts with a total nameplate capacity of 71.5 MW, with wind powered QFs making up 61.5 MW of that total. Idaho Power states that it currently has pending before the Commission applications for approval of additional wind-powered QF contracts in the amount of 21 MW. Additionally, the Company contends that it has received contacts from developers intending to pursue new QF projects with a nameplate capacity of 267.5 MW including 193 MW of new wind-powered QFs. Prior to the issuance of Order No. 29646, the Company notes that it had less than 1 MW of QF wind-powered generation under contract.

Federal/State Tax Incentives

In addition to the avoided cost rates established by the Commission, the Company contends that wind-powered QF development has also been stimulated by multiple federal and state tax incentives. Just prior to the issuance of Order No. 29646, the federal government reinstated an expired production tax credit equal to \$18/MWh. Also present at the federal level are accelerated depreciation rules and other tax incentives. At the state level, the Idaho Legislature recently enacted a sales tax exemption to encourage the development of alternative generating resources. (*Idaho Code* § 63-3622 QQ).

2005 RFP – 200 MW of Wind-Powered Resource

On April 22, 2005, the Commission accepted Idaho Power’s 2004 Integrated Resource Plan (IRP). Reference Order No. 29762. In the IRP, the Company, in consultation with the Integrated Resource Plan Advisory Council, considered and evaluated a full range of resource options, including wind generation. Based on those consultations, the Company used an average price of \$43/MWh for assessing the cost of wind resources. Using the \$43/MWh price assumption, the 2004 IRP called for 350 MW of wind-powered resource to be acquired in the near term. Idaho Power’s 2004 IRP described the Company’s intention to issue competitive

requests for proposals (RFPs) for 200 MW of wind-powered resource in 2005 in its near-term action plan. The Company's 2005 RFP was issued on January 13, 2005. The IRP also calls for an RFP for an additional 150 MW of wind-powered resources in 2008.

In deciding to move forward with an RFP program to competitively acquire wind resources, the Company states that it was hopeful that a bidding process would allow the Company to take advantage of competition and the economies of scale associated with larger size wind generation projects. It was the Company's hope that this strategy would moderate the total cost of wind energy acquired by averaging the higher cost of small QF wind projects acquired at the avoided cost rate with the presumably lower cost of wind acquired by competitive RFPs. The Company states that its expectations have not been realized.

Idaho Power reports it has recently reviewed the bid responses received in its 2005 RFP. The bids received, on average, propose purchase rates of approximately \$55/MWh. The Company believes that the bids the Company has received in the 2005 RFP are not reflective of market prices for wind generation and are being unduly influenced by the current published avoided cost rates. The Company cites also recent announcements by other regional utilities of power purchase agreements with wind resource developers with substantially lower pricing structures. For example, it states that in the State of Montana, NorthWestern Energy recently received Montana Commission approval for an agreement with Judith Gap LLC under which NorthWestern will purchase 135-150 MW of wind resource at a price of \$31.71/MWh. Reference Montana PSC Order No. 6633b issued March 31, 2005.

In light of the large number of MWs of QF wind resources already acquired and proposed and the high bid prices received in the 2005 RFP, the Company states that it is likely that it will be required to reduce the amount of wind generation acquired through the 2005 RFP and also defer or perhaps eliminate its proposed 2008 RFP.

Without a temporary suspension of QF purchases, the Company speculates that unsuccessful wind developers bidding in the 2005 RFP may decide to reconfigure their wind projects to qualify for the PURPA mandatory purchase obligation at published QF rates. If that occurs, the Company contends that it will be presented with an unmanageable influx of intermittent generation. The Company believes that the only way to allow careful consideration of the issues raised by its Petition and to assure that customers are not locked into long-term

contracts at above market prices is for the Commission to permit the Company to temporarily suspend its obligation to purchase energy from new wind-powered QF projects.

Intermittent Wind Resources – System Reliability

Idaho Power contends that the potential addition of large amounts of QF wind generation could adversely affect system reliability. To assure system reliability, the Company states that intermittent wind resources must be “firmed” by ancillary services. This firming can be provided by the purchase of load-following services and reserves from a third party supplier if the ancillary services and transmission are available on a firm, long-term basis or self-provided by the utility primarily through the acquisition of peaking resources, such as gas-fired combustion turbines, that the utility can dispatch.

In its 2004 IRP, the Company performed an analysis of the costs and risks associated with a resource portfolio consisting of 1,000 MW of wind. That analysis concluded that in order to safely integrate 1,000 MW of intermittent wind generation, it would be necessary to contemporaneously add 640 MW of combustion turbines to provide capacity when the intermittent wind resources were not operating. Adding intermittent resources without also adding ancillary firming capacity, the Company contends, adversely affects system reliability.

When the Commission in Order No. 29124 adopted the combined cycle combustion turbine as the surrogate avoided resource for setting avoided costs, the Company states that neither the Commission nor Idaho Power had much experience with wind resources. The cost associated with the ancillary services needed to integrate intermittent wind resources onto the utility’s system was acknowledged but was not a factor included in avoided cost calculations.

Idaho Power contends that the time has come, perhaps in conjunction with an independent third party consultant, to undertake a thorough analysis of the amount of intermittent resources that can be added to the Company’s system without jeopardizing system reliability. In addition, the cost of acquiring ancillary services such as combustion turbine peaking capacity in conjunction with adding intermittent QF wind resources, the Company contends, must be considered in determining the costs the Company can avoid by purchasing QF wind resources. An analysis of this type, the Company states, has not been performed looking specifically at Idaho Power’s system. A thorough analysis, it states, will require time and considerable effort.

Wind-Specific Avoided Cost Rates

Idaho Power notes that the Company and the Commission have generally resisted developing avoided cost rates specifically targeted to individual QF generating technologies. However, in light of the large number of actual and potential QF wind resources seeking PURPA contracts, it has become apparent to Idaho Power that a reassessment of how avoided costs should be computed for intermittent wind generating resources should be undertaken. Such an analysis would, for the first time, consider the above-described costs of firming and integrating intermittent QF wind resources into the Company's system.

Proposed Suspension of Mandatory Purchase Obligation for Wind QFs

It is Idaho Power's belief that the Commission cannot conduct a review of system reliability issues and wind-specific avoided costs without first instituting a temporary suspension of the PURPA mandatory purchase obligation for new wind QF projects. Unless the Commission orders a temporary suspension of the mandatory contract obligation under PURPA, the Company is concerned that wind QF developers will inundate Idaho Power with requests for contracts and file complaints, meritorious or otherwise, in order to position themselves for an entitlement to be "grandfathered" to the existing published avoided cost rates.

During the proposed period of suspension, Idaho Power commits to undertake the following:

- (1) The Company will retain an independent third party consultant to assist the Company in preparing an analysis which will assess the total amount of additional wind resources the Company system can absorb without adversely affecting the Company's overall power supply costs and system reliability. The results of this analysis will be presented to the Commission for its consideration.
- (2) The Company will prepare and file with the Commission a proposal for computing avoided costs specifically tailored to the attributes of intermittent wind-powered resources, including the additional costs attributable to peaking resources to integrate significant amounts of wind generation.
- (3) Idaho Power will prepare and present to the Commission a report describing possible steps that could be taken to increase the likelihood that further RFPs for wind resources reflect actual resource costs and market prices for wind resources rather than published avoided cost rates for all types of smaller QF projects. This analysis will include a review of the pros and cons of the utility including an ownership option for wind

resources as a way of providing pricing discipline within the RFP process.

On July 1, 2005, the Commission issued Notices of Petition and Intervention Deadline in Case No. IPC-E-05-22. Finding the Company's Petition alone to provide insufficient basis to grant the temporary suspension requested, the Commission established a schedule for the prefilings of testimony and legal briefs and established a date for public hearing and oral argument to develop a record for decision on the limited issue as to whether a temporary suspension of Idaho Power's PURPA obligation to enter into contracts to purchase energy generated by wind powered small power production facilities can or should be granted.

Public Hearing and Oral Argument

The public hearing and oral argument on the narrow issue of the requested temporary suspension of Idaho Power's PURPA obligation to enter into contracts to purchase energy generated by wind powered small power production facilities (the need for and appropriateness of such relief and related procedural and jurisdictional matters) and/or the Commission's power to suspend the PURPA avoided cost rate for wind facilities was held on July 22, 2005 in Boise, Idaho. The following parties appeared by and through their respective counsel:

Idaho Power Company:	Barton L. Kline Monica B. Moen
Commission Staff:	Scott Woodbury Deputy Attorney General
Avista Corporation:	David Meyer
Exergy Development Group of Idaho:	Peter J. Richardson Richardson & O'Leary, PLLC
Windland Incorporated:	William J. Batt John R. Hammond, Jr. Batt & Fisher, LLP
Cassia Wind Farm LLC and Cassia Gulch Wind Farm LLC:	Dean J. Miller McDevitt & Miller, LLP
Magic Wind LLC:	Dean J. Miller McDevitt & Miller, LLP
Energy Vision LLC:	Glen Ikemoto

PacifiCorp:

Lisa Nordstrom

Renewable Northwest Project and
NW Energy Coalition:

William M. Eddie

J.R. Simplot Company, although requesting and granted intervenor status, did not appear.

Commission Findings

The Commission has reviewed and considered the filings of record in Case No. IPC-E-05-22, including the filed briefs and testimony of parties and public comments. We have also considered the filed and oral motions of the parties and related arguments.

On July 19, 2005, Idaho Power filed a Motion to Modify Schedule proposing to defer oral argument and hearing and to establish a workshop schedule to explore settlement opportunities. The Motion was supported in full or with qualifying conditions by Renewable Northwest Project, NW Energy Coalition, Magic and Cassia. The Company's Motion was opposed by Windland. The Commission adjourned the July 22 hearing briefly at the start of proceedings to enable the parties to caucus and explore whether a settlement was possible. No consensus being reached, the Commission reconvened and moved forward with the July 22 hearing.

Exergy at hearing orally moved to strike Staff prefiled testimony beginning at page 3 line 21 as being outside the narrow scope of issues noticed for hearing. The Commission took the matter under advisement. The Staff testimony Exergy objected to was Staff's alternate recommendation to the temporary suspension recommended by Idaho Power. We find that two issues were identified for the July 22 hearing: (1) the Commission's legal ability to suspend and (2) the need for and appropriateness of such relief – and related procedural and jurisdictional matters. We find that Issue 2 raises the question of methodology and that Staff's proposal was an alternative to suspension and was within the scope of the hearing. To the extent that Exergy felt disadvantaged, the Commission provided parties an opportunity to file reply briefs and rebuttal testimony. Exergy requested neither. We find that Exergy's Motion to Strike is without basis and should be denied.

Cassia Wind, Cassia Gulch and Magic Wind moved orally at the conclusion of hearing for a Commission Order approving their eligibility and right to a firm energy sales agreement with Idaho Power at the published avoided cost rates in effect on the date of the

Company's Petition. The Commission in this Order establishes criteria for contract eligibility and finds it unnecessary to treat the identified projects separately.

Idaho Power, Commission Staff, Avista, PacifiCorp, Windland, Cassia Wind/Cassia Gulch, Magic Wind, Energy Vision and Renewable Northwest Project/NW Energy Coalition offered testimony on July 22. Legal briefs were submitted by Idaho Power, Avista, PacifiCorp, Exergy and a Joint Brief by Magic Wind, Cassia Wind and Cassia Gulch. The Commission accepted the briefs as sufficiently laying out the party positions. Parties were provided the opportunity to file reply briefs. Oral argument was waived.

Idaho Power at hearing in testimony reiterates the Company position set forth in the underlying Petition. While the Commission in its Notice in this case stated that the Company's Petition alone provided insufficient basis to grant the temporary suspension requested, the Commission's statement was not a disparagement of the Petition but was only a finding that a more formal record (testimony, affidavits, hearing, etc.) needed to be established to constitute a prima facie case for suspension.

Based on the record established in this case the Commission finds reason to believe that wind generation presents operational integration costs to a utility different from other PURPA qualified resources. We find that the unique supply characteristics of wind generation and the related integration costs provide a basis for adjustment to the published avoided cost rates, a calculated figure that may be different for each regulated utility. The procedure to determine the appropriate amount of adjustment, we find, and the identification of what studies, if any, need to be performed to provide such a number is a matter appropriate for further proceedings. The record reflects that a wind integration study if required may take six months to develop. Idaho Power has requested a suspension period from six to nine months.

The Commission is presented in this case with a Company proposal to suspend its obligation to purchase and a Staff proposal to reduce the published rate eligibility cap for qualified intermittent wind projects from 10 aMW to 100 kW and to require individual negotiation for larger wind projects. Exempt from Staff's proposal are those wind projects that are offered on a firmed basis. The Commission finds Staff's proposal to be a reasonable approach. In doing so we find that under PURPA standard rates for purchases need be published only for QFs 100 kW and smaller. Reference 18 C.F.R. Section 292.304(c)(1). We find that the published avoided cost rate for other generation types is not being challenged in this case. We

find no reason to cast the net any further than necessary and find it reasonable to limit our Order to intermittent wind QFs only. Reference 18 C.F.R. Section 292.304(c)(3)(ii). We find our action in reducing the cap for published rates for wind projects to be just and reasonable to the electric consumers of Idaho Power and in the public interest. Reference 18 C.F.R. Section 292.304(a)(1)(i). This Commission finds that it has continuing authority to review PURPA rates in order to protect the public interest.

It was suggested in briefing and testimony that the 90/110 performance band established in Order No. 29632 sufficiently dealt with the firm versus non-firm characteristics of wind and that no further adjustment is needed. In moving forward in this case we find that the average monthly generation requirement that we established in Order No. 29632 may not capture the integration requirements and operational demands placed on the utility by intermittent generation and that the integration costs associated with same may not be fully reflected in the published avoided cost rates. In moving forward with this case we do so in recognition that no utility is required to pay more than its avoided cost for QF purchases. PURPA § 210(b).

Idaho Power has a federal requirement to purchase qualifying wind generation pursuant to PURPA, and the implementing rules and regulations of the Federal Energy Regulatory Commission (FERC) and this Commission. The Commission recognizes that Idaho Power is also seeking to purchase wind generation by way of a separate Request for Proposal (RFP) process. The Company's RFP conforms with a resource acquisition strategy set forth in its 2004 Integrated Resource Plan. We note of significance that an Integrated Resource Plan is a living document and as such it is subject to change as new information becomes available or as circumstances change. Bids in the Company's 2005 wind RFP were submitted in March 2005. The Commission finds no persuasive evidence that the RFP bids were affected or influenced by the published avoided cost rate. While the Commission is not directing that the Company proceed in any particular manner with its RFP, we nevertheless encourage the Company to bring the RFP process to conclusion.

At the beginning of hearing on July 22, the Commission adjourned to allow the parties to explore whether any consensus could be reached regarding those PURPA projects that were in various stages of negotiation with Idaho Power. The parties were unable to reach consensus. Accordingly, this Commission finds it reasonable to establish the following criteria to determine the eligibility of PURPA qualifying wind generating facilities for contracts at the

published avoided cost rates. For purposes of determining eligibility we find it reasonable to use the date of the Commission's Notice in this case, i.e., July 1, 2005. For those QF projects in the negotiation queue on that date, the criteria that we will look at to determine project eligibility are: (1) submittal of a signed power purchase agreement to the utility, or (2) submittal to the utility of a completed Application for Interconnection Study and payment of fee. In addition to a finding of existence of one or both of the preceding threshold criteria, the QF must also be able to demonstrate other indicia of substantial progress and project maturity, e.g., (1) a wind study demonstrating a viable site for the project, (2) a signed contract for wind turbines, (3) arranged financing for the project, and/or (4) related progress on the facility permitting and licensing path.

PacifiCorp and Avista in this case have both requested similar procedural and regulatory treatment as pertains to the availability of published rates for wind QFs. On the evidence presented we find that neither PacifiCorp nor Avista are in the situation of having to purchase an amount of QF wind generation as has been offered and presented to Idaho Power. Nevertheless, because we find for administrative reasons that it is prudent and expedient to examine this question for all jurisdictional utilities at the same time, we find this request to be reasonable and justified. PacifiCorp and Avista are directed to participate in further proceedings before this Commission in this docket. Idaho Power in conjunction with the other two utilities and in consultation with other parties to this case is directed to file a proposed schedule for an initial workshop to identify issues, required studies, and discovery parameters. Also to be filed is a proposal for further procedure and related time lines. An initial report proposing same shall be filed with the Commission within 30 days. Subsequent status reports shall be filed every 60 days thereafter.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction over Idaho Power Company, Avista Corporation dba Avista Utilities, and PacifiCorp dba Utah Power & Light Company, electric utilities, pursuant to the authority and power granted it under Title 61 of the Idaho Code and the Public Utility Regulatory Policies Act of 1978 (PURPA).

The Commission has authority under PURPA and the implementing regulations of the Federal Energy Regulatory Commission (FERC) to set avoided costs, to order electric utilities to enter into fixed term obligations for the purchase of energy from qualified facilities and to implement FERC rules.

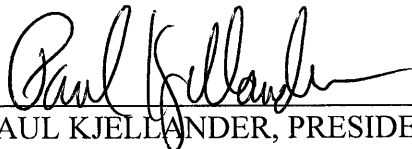
ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED that the published rate cap for published avoided cost rates for eligible wind projects be reduced from 10 aMW to 100 kW. Exempt are those wind projects offered on a firmed up basis. Also exempt are those wind projects qualifying for contract as of July 1, 2005.

IT IS FURTHER ORDERED that the Motions of Idaho Power to modify schedule, of Exergy to strike testimony and of Cassia Wind, Cassia Gulch and Magic Wind to obtain a separate determination of contract eligibility are denied in a manner and as more particularly set forth above.

IT IS FURTHER ORDERED that the docket in Case No. IPC-E-05-22 shall remain open for further proceedings as set forth above.

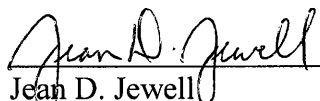
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 4th day of August 2005.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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